

OFFICE OF CONGRESSIONAL AFFAIRS

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	ACTION	INFO
1. D/OCA		X
2. DD/Legislation	XX	<input checked="" type="checkbox"/>
3. DD/Senate Affairs		X
4. Ch/Senate Affairs		
5. DD/House Affairs		X
6. Ch/House Affairs		
7. Admin Officer		
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SUSPENSE

11 APRIL 88
Date

Action Officer:

Remarks: Action completed, per telephone to
S. Thau on 8 Apr 88 - Sent MFR on
14 Apr 88 confirm action per OCA 88-1117

8 APRIL 88

Name/Date

STAT



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

URGENT

April 8, 1988

OCA 88-1037

LEGISLATIVE REFERRAL MEMORANDUM

OCA FILE

LEG

TO: Legislative Liaison Officer -

Department of Defense (Brick 697-1305) 06
National Security Council
Central Intelligence Agency
Department of Justice (Perkins 633-2113) 17
Department of Commerce (Levitt 377-3151) 04
Department of the Treasury (Carro 566-8523) 28
United States Trade Representative (Parker 3432) 23

SUBJECT: State "edited markup" of the Berman-Hyde Substitute of
H.R. 3651, "Antiterrorism and Arms Export Amendments of
1988."

NOTE: 1. This "edited markup" was promised to the House
Foreign Affairs Committee staff as soon as the recess
ended, hence the short deadline.

2. When cleared, this "edited markup" will be
considered as an Administration proposal.

3. This "edited markup" will supercede all other
Administration reports on H.R. 3651.

4. If your agency has not responded within the
deadline we will assume you have no comment on the
"edited markup" and procede to clear it.

The Office of Management and Budget requests the views of your
agency on the above subject before advising on its relationship
to the program of the President, in accordance with OMB Circular
A-19.

A response to this request for your views is needed no later than
C.O.B., MONDAY, APRIL 11, 1988.

Questions should be referred to Sue Thau/Annette Rooney
(395-7300), the legislative analyst in this office.

Ronald K. Peterson

RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference

Enclosures

cc: J. Eisenhower
A. Donahue



United States Department of State

Washington, D.C. 20520

APR 7 1988

Dear Mr. Miller:

I hereby request OMB clearance to transmit informally to the House Foreign Affairs Committee the enclosed "edited markup" of the Berman-Hyde substitute bill of March 15, 1988. This Berman-Hyde substitute incorporates significant changes to the original and very objectionable bill introduced by Congressmen Berman, Fascell and Hyde last November. As a result of hearings before the HFAC on March 17, at which the Department opposed the original bill, and subsequent discussions between the HFAC staff and an interagency team (including State, DoD, Commerce, and CIA), it appears that it may be possible to develop a text that would be both acceptable to the HFAC and advantageous to the Executive Branch.

The enclosed copy of H.R. 3651 incorporates changes recommended by the Department of State. It includes (1) changes recommended in writing by the Justice Department, (2) changes suggested verbally by DoD, and (3) changes which the Department of State believes will meet the concerns of the CIA. The Department urges that the draft be circulated to these agencies and to the Department of Commerce to ensure that the changes are adequate for their purposes.

During the consultations with the HFAC staff, the Administration made one commitment: we would try to develop a text that we could actually support, working from the Berman-Hyde draft. The enclosed draft is an attempt to meet this objective. It should be understood, however, that the failure to adopt the significant changes proposed by the Administration would result in Administration opposition to the bill. This includes the necessary deletion of Section 6 on the 15-day prior notice of all FMS and MAP transfers and the unqualified retention of the Section 614 (FAA) waiver authorization, as well as agreeing on an adequate arrangement on CIA arms transfers.

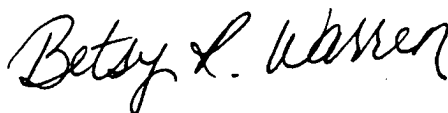
Because the recommendations of the Department of Justice in its draft letter to the HFAC, circulated by OMB for clearance on March 31, are incorporated in its markup, the Department requests that OMB treat the State draft as superseding the requirement for the separate Justice Department letter.

The Honorable
James C. Miller, III, Director,
Office of Management and Budget.

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We would like to transmit our recommendations to the HFAC on Monday April 11 if possible; committee markup is scheduled for April 19, but our views must be transmitted early if they are to be considered favorably. Accordingly, we request urgent clearance.

Sincerely,

A handwritten signature in cursive script, reading "Betsy R. Warren".

Betsy R. Warren
Acting Assistant Secretary
Legislative Affairs

Enclosure

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REVISED
BERMAN-HYDE BILL

[Discussion Draft--March 15, 1988]

AMENDMENT-IN-THE-NATURE-OF-A-SUBSTITUTE TO H.R. 3651

(Note: Changes to the text of H.R. 3651 as introduced are shown in *italic*, except for minor, technical changes)

Strike out all after the enacting clause and insert in lieu thereof the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Antiterrorism and Arms
3 Export Amendments Act of 1988".

4 SEC. 2. PROHIBITION ON ARMS TRANSACTIONS WITH COUNTRIES

5 SUPPORTING TERRORISM.

6 (a) PROHIBITION.--Section 40 of the Arms Export Control
7 Act (22 U.S.C. 2780) is amended to read as follows:

8 "SEC. 40. TRANSACTIONS WITH COUNTRIES SUPPORTING ACTS OF

9 INTERNATIONAL TERRORISM.

10 "(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES

11 GOVERNMENT.--The following transactions by the United States

12 Government are prohibited:

13 "(1) ~~Exporting or otherwise~~ providing (by sale,
14 lease or loan, grant, or other means), ~~directly or~~

15 ~~indirectly~~ any munitions item to a ^{government} ~~country~~ ^{of a country} described in

16 subsection (d) under the authority of this Act ^{or} the

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circumstances require an except^{to}
this requirement. 10N

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1 Foreign Assistance Act of 1961, ~~or any other law~~. In
2 implementing this paragraph, the United States Government
3 shall suspend delivery to such ~~country~~^{government} of any such item
4 pursuant to any such transaction which has not been
5 completed at the time the Secretary of State makes the
6 determination described in subsection (d), and shall
7 terminate any lease or loan to such country of any such
8 item which is in effect at the time the Secretary of
9 State made that determination, unless the Secretary of State

10 (2) Providing credits, guarantees, or other
11 financial assistance under the authority of this Act, the
12 Foreign Assistance Act of 1961, or any other law, with
13 respect to the acquisition of any munitions item by a
14 ~~country~~^{government of a country} described in subsection (d). In implementing this
15 paragraph, the United States Government shall suspend
16 expenditures pursuant to any such assistance obligated
17 before the Secretary of State made the determination
18 described in subsection (d). The President may authorize
19 expenditures otherwise required to be suspended pursuant
20 to the preceding sentence if the President has
21 determined, and reported to the Congress, that suspension
22 of those expenditures causes undue financial hardship to
23 a supplier, shipper, or similar person and allowing the
24 expenditure will not result in any munitions item being
25 made available for use by such ~~country~~^{government}.

usual a

unless the Secretary of State is to determine that compelling circumstances require an exception to this requirement,

(including my consent for retransfer)

13 (4) Providing any license or other approval under
14 section 38 of this Act for any export or other transfer
15 (including by means of a technical assistance agreement,
16 manufacturing licensing agreement, or coproduction
17 agreement) of any munitions item to a country described
18 in subsection (d). In implementing this paragraph, the
19 United States Government shall suspend any such license
20 or other approval which is in effect at the time the
21 Secretary of State makes the determination described in
22 subsection (d), except that this sentence does not apply
23 with respect to any item that has already been exported
24 or otherwise transferred to such country.

25 (5) Otherwise ~~participating directly or indirectly~~ ^{identifies facilitating}

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1 ~~in, or take any action to facilitate~~ the acquisition of
 2 any munitions item by a ^{government of a} country described in subsection
 3 (d). This paragraph applies with respect to activities
 4 undertaken (A) by any department, agency, or other
 5 instrumentality of the Government, (B) by any officer or
 6 employee of the Government (including members of the
 7 United States Armed Forces), or (C) by any other person
 8 at the request or on behalf of the Government.

9 "(b) PROHIBITED TRANSACTIONS BY UNITED STATES PERSONS.--

10 "(1) IN GENERAL.--A United States person ^{as defined in} may not ^{regulations}
 11 take any of the following actions: ^{promulgated by}
 12 ^{the Secretary of State}
 13 ^{pursuant to section 38}
 14 ^{of this Act}

12 "(A) Exporting any munitions item to any
 13 country described in subsection (d).

14 "(B) Selling, leasing, loaning, granting, or
 15 otherwise providing any munitions item to any
 16 country described in subsection (d).

17 "(C) Selling, leasing, loaning, granting, or
 18 otherwise providing any munitions item to any
 19 recipient which is not the government of or a
 20 person in a country described in subsection (d)
 21 if the United States person has reason to know
 22 that the munitions item will be made available to
 23 any country described in subsection (d).

24 "(D) Taking any other action which would
 25 facilitate the acquisition, directly or

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1 indirectly, of any munitions item by any country
 2 described in subsection (d) if the United States
 3 person has reason to know that that action will
 4 facilitate the acquisition of that item by such a
 5 country.

6 ~~“(2) LIABILITY FOR ACTIONS OF FOREIGN SUBSIDIARIES.”~~
 7 *INSERT* “(2) Applicability to other countries: The Secretary of State is
 8 authorized to prohibit or restrict any of the transactions described in
 9 subsection (6) (5) and section 40 of the Department of State Basic
 10 Authorities Act of 1956, as amended, with respect to any country if the
 11 Secretary of State determines that such action would further the foreign
 12 policy and national security of the United States, provided that this
 13 authority shall be exercised pursuant to regulations promulgated pursuant
 14 to section 38 of this Act.

15 ~~“action described in paragraph (1) outside the United States.”~~

16 “(3) APPLICABILITY TO ACTIONS OUTSIDE THE UNITED
 17 STATES.--Paragraph ^{and (2)} (1) ^y applies with respect to actions
 18 described in that paragraph which are taken either within
 19 or outside the United States by a United States person
 20 described in subsection ~~(1) (3) (A) or (B)~~ ^{(b) (1)}.

21 “(c) TRANSFERS TO GOVERNMENTS AND PERSONS COVERED.--This
 22 section applies with respect to--

23 “(1) the acquisition of munitions items by the
 24 government of a country described in subsection (d); and

25 “(2) the acquisition of munitions items by any
 individual, group, or other person within a country
 described in subsection (d).

“(d) COUNTRIES COVERED BY PROHIBITION.--The prohibitions

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*taking into account
such factors as whether
the government*

1 contained in this section apply with respect to a country if
2 the Secretary of State determines that the government of that
3 country has repeatedly provided support for acts of
4 international terrorism ~~by actions such as granting~~ ^{sanctuary}
5 from prosecution or apprehension to an individual or group
6 which has committed an act of international terrorism.

7 "(e) PUBLICATION OF DETERMINATIONS.--Each determination
8 of the Secretary of State under subsection (d) shall be
9 published in the Federal Register.

10 "(f) RESCISSION.--A determination made by the Secretary
11 of State under subsection (d) may not be rescinded unless the
12 President submits to the Speaker of the House of
13 Representatives and the chairman of the Committee on Foreign
14 Relations of the Senate--

15 "(1) before the proposed rescission would take
16 effect, a report certifying that--

17 "(A) there has been a fundamental change in
18 leadership and character of the government of the
19 country concerned;

20 "(B) that government is not supporting acts of
21 international terrorism; and

22 "(C) that government has provided assurances
23 that it will not support acts of international
24 terrorism in the future; or

25 "(2) at least ⁶⁰ ~~90~~ days before the proposed rescission

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1 would take effect, a report justifying the rescission and
2 certifying that--

3 "(A) the government concerned has not provided
4 any support for international terrorism, ~~including~~
5 ~~support or sanctuary for any major terrorist or~~
6 ~~terrorist group,~~ during the preceding 6-month period;
7 and

8 "(B) the government concerned has provided
9 assurances that it will not support acts of
10 international terrorism in the future.

11 "(g) WAIVER.--The President may waive the prohibitions
12 contained in this section with respect to a specific
13 transaction if--

14 "(1) the President determines that the transaction
15 is vital to the national security interests of the United
16 States; and

17 "(2) not less than 15 days prior to the proposed
18 transaction, the President--

19 "(A) consults with the Committee on Foreign
20 Affairs of the House of Representatives and the
21 Committee on Foreign Relations of the Senate; and

22 "(B) submits to the Speaker of the House of
23 Representatives and the chairman of the Committee on
24 Foreign Relations of the Senate a report containing--

25 "(i) the name of any country involved in the

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1 proposed transaction, the identity of any
2 recipient of the items to be provided pursuant to
3 the proposed transaction, and the anticipated use
4 of those items;

5 "(ii) a description of the munitions items
6 involved in the proposed transaction (including
7 their market value) and the actual sale price at
8 each step in the transaction (or if the items are
9 transferred by other than sale, the manner in
10 which they will be provided);

11 "(iii) the reasons why the proposed
12 transaction is vital to the national security
13 interests of the United States and the
14 justification for such proposed transaction;

15 "(iv) the date on which the proposed
16 transaction is expected to occur; and

17 "(v) the name of every United States
18 Government department, agency, or other entity
19 involved in the proposed transaction, every
20 foreign government involved in the proposed
21 transaction, and every private party with
22 significant participation in the proposed
23 transaction.

24 To the extent possible, the information specified in
25 subparagraph (B) of paragraph (2) shall be provided in

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1 unclassified form, with any classified information provided
2 in an addendum to the report.

3 “(h) EXEMPTION FOR CERTAIN REPORTED ACTIVITIES.--The
4 prohibitions contained in this section do not apply with
5 respect to a transfer for which notification is given in
6 accordance with section 36^d(~~e~~) of this Act.

7 ~~“(i) RELATION TO OTHER LAWS.--The provisions of this~~
8 ~~section shall apply notwithstanding section 614(a) of the~~
9 ~~Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)) or any~~
10 ~~other provision of law.~~

11 “(j) CRIMINAL PENALTY.--Any person who willfully
12 violates this section shall be fined for each violation not
13 more than \$1,000,000, imprisoned not more than 10 years, or
14 both.

15 “(k) CIVIL PENALTIES; ENFORCEMENT.--In the enforcement
16 of this section, the President is authorized to exercise the
17 same powers concerning violations and enforcement which are
18 conferred upon departments, agencies, and officials by
19 sections 11(c), 11(e), 11(g), and 12(a) of the Export
20 Administration Act of 1979 (subject to the same terms and
21 conditions as are applicable to such powers under that Act),
22 except that, notwithstanding section 11(c) of that Act, the
23 civil penalty for each violation of this section may not
24 exceed \$500,000.

25 “(K) DEFINITIONS.--As used in this section--

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for purposes of this section
or section 38 of this Act

1 or described "(1) the term 'munitions item' means any item
2 enumerated on the United States Munitions list (without
3 regard to whether the item is imported into or exported
4 from the United States);

provided that any determination by the
Secretary of State that any item is included on
the list shall be deemed to be final and con-
clusive and shall not

5 "(2) the term 'United States', when used be subject to judicial
6 geographically, means the several States, the District of review.
7 Columbia, the Commonwealth of Puerto Rico, the
8 Commonwealth of the Northern Mariana Islands, and any
9 territory or possession of the United States; and

10 "(3) the term 'United States person' includes--

11 "(A) any citizen or permanent resident alien of
12 the United States;

13 "(B) any sole proprietorship, partnership,
14 company, association, or corporation having its
15 principal place of business within the United States
16 or organized under the laws of the United States, any
17 State, the District of Columbia, the Commonwealth of
18 Puerto Rico, the Commonwealth of the Northern Mariana
19 Islands, or any territory or possession of the United
20 States; and

21 "(C) any other person with respect to that
22 person's actions while in the United States."

23 (e) CONFORMING AMENDMENT.--Section 3(f) of the Arms
24 Export Control Act (22 U.S.C. 2753(f)) is repealed.

25 SEC. 3. CONSIDERATIONS IN ISSUANCE OF ARMS EXPORT LICENSES

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1 AND IN ARMS SALES.

2 (a) EXPORT LICENSES.--Section 38(a)(2) of the Arms Export
3 Control Act (22 U.S.C. 2778) is amended by inserting
4 ``support international terrorism,`` after ``arms race,``.

5 (b) ARMS SALES.--Section 36(b)(1)(D) of that Act (22
6 U.S.C. 2776(b)(1)(D)) is amended--

7 (1) by redesignating clauses (ii) through (iv) as
8 clauses (iii) through (v), respectively; and

9 (2) by inserting the following new clause (ii) after
10 clause (i):

11 `` (ii) support international terrorism; ``.

12 SEC. 4. EXPORTS TO COUNTRIES SUPPORTING TERRORISM.

13 Section 6(j) of the Export Administration Act of 1979 (50
14 U.S.C. App 2405(j)) is amended to read as follows:

15 `` (j) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.--(1)
16 A validated license shall be required for the export of goods
17 or technology to a country if the Secretary of State has made
18 the following determinations:

19 `` (A) The government of such country has repeatedly
20 provided support for acts of international terrorism ^{by}
21 ~~actions such as granting~~^s sanctuary from prosecution or
22 apprehension to an individual or group which has
23 committed an act of international terrorism.

24 `` (B) The export of such goods or technology ^w could
25 make a significant contribution to the military potential

, taking into account such
factors as whether the government

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1 of such country (including its military logistics
 2 capability), ~~would be destined to a military end user or~~
 3 ~~for military end use in such country,~~ ^W or could enhance
 4 the ability of such country to support acts of
 5 international terrorism.

6 (2) The Secretary and the Secretary of State shall
 7 notify the Committee on Foreign Affairs of the House of
 8 Representatives and the Committee on Banking, Housing, and
 9 Urban Affairs and the Committee on Foreign Relations of the
 10 Senate at least 30 days before issuing any validated license
 11 required by paragraph (1).

12 (3) Each determination of the Secretary of State under
 13 paragraph (1)(A), including each determination in effect on
 14 the date of the enactment of the Antiterrorism and Arms
 15 Export Amendments Act of 1988, shall be published in the
 16 Federal Register.

17 (4) A determination made by the Secretary of State
 18 under paragraph (1)(A) may not be rescinded unless the
 19 President submits to the Speaker of the House of
 20 Representatives and the chairman of the Committee on Banking,
 21 Housing, and Urban Affairs and the chairman of the Committee
 22 on Foreign Relations of the Senate--

23 (A) before the proposed rescission would take
 24 effect, a report certifying that--

25 (i) there has been a fundamental change in

(c) Implementation of export controls on specific goods and services which meet the criteria described in subsection (b) under this Act or implementation of sanctions in any other act (other than the Arms Export Control Act) based on the determination in subsection (a), would further the antiterrorism objectives of the United States.

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1 leadership and character of the government of the
2 country concerned;

3 "(ii) that government is not supporting acts of
4 international terrorism; and

5 "(iii) that government has provided assurances
6 that it will not support acts of international
7 terrorism in the future; or

8 "(B) at least 90 days before the proposed rescission
9 would take effect, a report justifying the rescission and
10 certifying that--

11 "(i) the government concerned has not provided
12 any support for international terrorism ~~including~~
13 ~~support or sanctuary for any major terrorist or~~
14 ~~terrorist group,~~ during the preceding 6-month period;
15 and

16 "(ii) the government concerned has provided
17 assurances that it will not support acts of
18 international terrorism in the future."

19 SEC. 5. PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING
20 INTERNATIONAL TERRORISM.

21 Section 620A of the Foreign Assistance Act of 1961 (22
22 U.S.C. 2371) is amended to read as follows:

23 "SEC. 620A. PROHIBITION ON ASSISTANCE TO GOVERNMENTS
24 SUPPORTING INTERNATIONAL TERRORISM.

25 "(a) PROHIBITION.--The United States shall not provide

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1 any assistance under this Act, the Agricultural Trade
 2 Development and Assistance Act of 1954, the Peace Corps Act,
 3 or the Export-Import Bank Act to any ^{government} ~~country~~ if the Secretary
 4 of State determines that the government ~~of that country~~ has
 5 repeatedly provided support for acts of international
 6 terrorism ^s by actions such as granting ^s sanctuary from
 7 prosecution or apprehension to an individual or group which
 8 has committed an act of international terrorism.

taking into
 account such
 factors as
 whether the
 government

9 "(b) PUBLICATION OF DETERMINATIONS.--Each determination
 10 of the Secretary of State under subsection (a), including
 11 each determination in effect on the date of the enactment of
 12 the Antiterrorism and Arms Export Amendments Act of 1988,
 13 shall be published in the Federal Register.

14 "(c) RESCISSION.--A determination made by the Secretary
 15 of State under subsection (a) may not be rescinded unless the
 16 President submits to the Speaker of the House of
 17 Representatives and the chairman of the Committee on Foreign
 18 Relations of the Senate--

19 "(1) before the proposed rescission would take
 20 effect, a report certifying that--

21 "(A) there has been a fundamental change in
 22 leadership and character of the government of the
 23 country concerned;

24 "(B) that government is not supporting acts of
 25 international terrorism; and

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1 “(C) that government has provided assurances
2 that it will not support acts of international
3 terrorism in the future; or

4 “(2) at least ⁶⁰~~90~~ days before the proposed rescission
5 would take effect, a report justifying the rescission and
6 certifying that--

7 “(A) the government concerned has not provided
8 any support for international terrorism, ~~[including~~
9 ~~support or sanctuary for any major terrorist or~~
10 ~~terrorist group]~~ during the preceding 6-month period,
11 and

12 “(B) the government concerned has provided
13 assurances that it will not support acts of
14 international terrorism in the future.

15 “(d) WAIVER.--Assistance prohibited by subsection (a)
16 may be provided to a ^{government}~~country~~ described in that subsection
17 if--

18 “(1) the President determines that national security
19 interests or humanitarian reasons justify a waiver of
20 subsection (a), except that humanitarian reasons may not
21 be used to justify ^{military} assistance under part II of this Act
22 ~~(including chapter 4, chapter 6, and chapter 8)~~ for the
23 ~~Export-Import Bank Act~~; and

24 “(2) at least 15 days before the waiver takes
25 effect, the President consults with the Committee on

the President determines that suspension of a specific program which is intended to directly assist the people of such country would not further the antiterrorism objectives of the United States

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1 Foreign Affairs of the House of Representatives and the
 2 Committee on Foreign Relations of the Senate regarding
 3 the proposed waiver and submits a report to the Speaker
 4 of the House of Representatives and the chairman of the
 5 Committee on Foreign Relations of the Senate containing--

6 (A) the name of the recipient country;

7 (B) a description of the national security

8 interests or humanitarian reasons which require the
 9 waiver; or why suspension of a specific program which is intended
to directly assist the people of such country would not
further the antiterrorism objectives of the United States

10 (C) the type and amount of and the

11 justification for the assistance to be provided
 12 pursuant to the waiver; and

13 (D) the period of time during which such waiver
 14 will be effective.

15 The waiver authority granted in this subsection may not be
 16 used to provide any assistance under the Foreign Assistance
 17 Act of 1961 which is also prohibited by section 40 of the
 18 Arms Export Control Act."

19 **SEC. 6. NOTICE TO CONGRESS OF THIRD COUNTRY TRANSFERS.**

20 (a) **ITEMS SOLD UNDER FMS PROGRAM.**--The last sentence of
 21 section 3(a) of the Arms Export Control Act (22 U.S.C.
 22 2753(a)) is amended to read as follows: "In those instances
 23 where a certification from the President is not required
 24 pursuant to subsection (d), the President shall, before
 25 granting any consent under paragraph (2) of this subsection,

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1 submit a report with respect to such consent to the Speaker
2 of the House of Representatives and to the chairman of the
3 Committee on Foreign Relations of the Senate (such report to
4 be submitted at least 15 days before the effective date of
5 the consent unless the President certifies in his report that
6 an emergency exists which requires that consent become
7 effective immediately in the national security interests of
8 the United States) and shall notify the Congress in writing
9 of any developments which alter or supplement the information
10 provided in such report."

11 (b) ITEMS EXPORTED PURSUANT TO A MUNITIONS

12 LICENSE.--Section 38 of that Act (22 U.S.C. 2778) is amended
13 by adding at the end the following:

14 "(g) In those instances where a report from the
15 President is not required pursuant to section 3(d)(3), the
16 President--

17 "(1) before granting any consent to a transfer of
18 any defense article or defense service, the export of
19 which has been licensed or approved under this section,
20 shall submit a report with respect to such consent to the
21 Speaker of the House of Representatives and to the
22 chairman of the Committee on Foreign Relations of the
23 Senate (such report to be submitted at least 15 days
24 before the effective date of the consent unless the
25 President certifies in his report that an emergency

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1 exists which requires that consent become effective
2 immediately in the national security interests of the
3 United States); and

4 "(2) shall notify the Congress in writing of any
5 developments which alter or supplement the information
6 provided in such report."

7 (c) ITEMS PROVIDED UNDER MAP PROGRAM.--Section 505 of the
8 Foreign Assistance Act of 1961 (22 U.S.C. 2314) is amended by
9 adding at the end the following:

10 "(h) The President shall, before granting any consent
11 under subsection (a)(1)(B), submit a report with respect to
12 such consent to the Speaker of the House of Representatives
13 and to the chairman of the Committee on Foreign Relations of
14 the Senate and shall notify the Congress in writing of any
15 developments which alter or supplement the information
16 provided in such report. The report required by this
17 subsection shall be submitted at least 15 days before the
18 effective date of the consent unless the President certifies
19 in his report that an emergency exists which requires that
20 consent become effective immediately in the national security
21 ~~interests of the United States."~~

22 SEC. 7. DOD TRANSFERS TO OTHER AGENCIES.

23 (a) QUARTERLY REPORTS.--Section 36(a) of the Arms Export
24 Control Act (22 U.S.C. 2776(a)) is amended--

25 (1) by striking out "and" at the end of paragraph

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1 (8);

2 (2) by striking out the period at the end of
3 paragraph (9) and inserting in lieu thereof ``; and``;
4 and

5 (3) by inserting after paragraph (9) the following:
significant military equipment

6 `` (10) a listing of all ⁴⁷⁽⁶⁾ munitions items (as defined
7 in section ~~40(1)-(1))~~ which were sold, leased, or

8 otherwise transferred by the Department of Defense to any
9 other department, agency, or other entity of the United
10 States Government during the quarter for which such

11 report is submitted (including the name of the recipient
an identification

12 Government entity and ~~a discussion~~ of what that entity
intends to

13 ~~will~~ do with those munitions items) if--

14 `` (A) the value of the ~~munitions~~ items was

15 \$250,000 or more; or

16 `` (B) the value of all ^{significant} ~~munitions~~ the items

17 transferred to that Government department, agency, or

18 other entity during that quarter was \$250,000 or

19 more;

20 excluding munitions items transferred for disposition or

21 use solely within the United States or for use in

22 connection with intelligence activities which are subject

23 to ~~reporting to the Congress under~~ title V of the

24 National Security Act of 1947 (50 U.S.C. 413 et seq.).``

25 (b) CLASSIFICATION OF REPORTS.--That section is amended

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1 in the parenthetical clause in the text preceding paragraph
 2 (1) by inserting `` , and any information provided under
 3 paragraph (10) of this subsection may also be provided in a
 4 classified addendum'' after ``(b)(1) of this section''.

5 SEC. 8. NOTICE TO CONGRESS OF CERTAIN ARMS TRANSFERS.

6 Section 36 of the Arms Export Control Act (22 U.S.C.
 7 2776) is amended by adding at the end the following:

8 `` (e)(1) ~~The United States Government may not, under the~~
 9 authority of this or any other Act, transfer or assist in the
 10 transfer of any munitions item directly or indirectly to any
 11 foreign government, any foreign group or person, or any other
 12 person outside the United States Government as part of a
 13 significant anticipated intelligence activity which is
 14 subject to reporting to the Congress under title V of the
 15 National Security Act of 1947 (50 U.S.C. 413 et seq.) unless
 16 the President has specifically notified the Congress of such
 17 ~~transfer in accordance with the procedures under that title~~

18 `` (2) As used in this subsection, the term 'munitions
 19 item' means any item enumerated on the United States
 20 Munitions list (without regard to whether the item is
 21 imported into or exported from the United States).''.

22 SEC. 9. SPECIAL AUTHORITIES.

23 The second sentence of section 614(c) of the Foreign
 24 Assistance Act of 1961 (22 U.S.C. 2364(c)) is amended to read
 25 as follows: ``The President shall fully inform the chairman

Notwithstanding the provisions of this Act, the United States may transfer or assist in the transfer of munitions items in accordance with the procedures provided under section 662 of the Foreign Assistance Act of 1961 and Title V of the National Security Act of 1947.

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1 and ranking minority member of the Committee on Foreign
2 Affairs of the House of Representatives and the chairman and
3 ranking minority member of the Committee on Foreign Relations
4 of the Senate of ^{the} ~~each~~ use of funds under this subsection
5 prior to the use of such funds.".

6 SEC. 10. HOSTAGE ACT.

7 Section 2001 of the Revised Statutes of the United States
8 (22 U.S.C. 1732) is amended by inserting "and not otherwise
9 prohibited by law" after "acts of war".

-- New section amending section 38 (attached)

-- New exception for assistance to opposition groups

SECTION 10. Improving Enforcement of United States Arms
Transfer Policies.

Section 38 of the Arms Export Control Act is amended by adding at the end the following new subsections:

(h) Notwithstanding any other provision of law, the President may prohibit any transaction by any U.S. person, as defined in regulations promulgated by the Secretary of State pursuant to this section, relating to any item described on the U.S. Munitions List, without regard as to whether the article, data, or service was produced, developed or exported with U.S. technology of any kind and may regulate any transaction relating to any such article, data, or service, and require any U.S. person to report to the Secretary of State regarding any transaction, including any financial transaction, as specified in regulations promulgated pursuant to this section, which may affect or facilitate transfers of items described on the United States Munitions List. In order to ensure compliance with the requirements of this section, the Secretary of State is authorized to exercise the powers conferred by Section 603(a) of the Comprehensive Anti-Apartheid Act of 1986 (P.L. 99-440).

REPRODUCED AT GOVERNMENT EXPENSE

Sec. Assistance to Non-Governmental Entities

The President shall have the authority to furnish assistance to individuals, private voluntary organizations, and nongovernmental opposition groups within countries that are subject to prohibitions on foreign assistance under any provision of law if the President determines that such assistance will advance U.S. antiterrorism or human rights policies, provided that such assistance may not be provided if it is anticipated that the assistance may benefit the government of such a country, and provided further that such assistance may not be contrary to the objectives of the applicable provisions of law.